

POLICY FOR CLAIMANTS UNABLE TO OBTAIN OWNER AUTHORIZATION

Pursuant to 503 CMR 2.08(3), any Claimant that is not the Owner of the UST System must obtain written authorization from the Owner, or from a court, to file Claims with the Board. If after making a reasonable attempt, as described below, the Claimant is not able to obtain Owner Authorization, the Claimant may appeal to the Board for authorization to file the claim.

The Claimant must submit at least one written request to the Owner to complete the owner-applicable sections of the UST Program's Owner Authorization form. The written request must be sent to the Owner via certified mail (return receipt) or other delivery service that provides signature verification of delivery (e.g. FedEx, UPS, etc). The request must allow the Owner 30 calendar days to respond. If after 30 calendar days, the Claimant has not received the completed Owner Authorization form, the Claimant may submit a written request to the Board for authorization to file the claim without the Owner's Authorization. This request will include a copy of the original Owner-request letter and a copy of the delivery verification receipt.

After review, the Board will submit a written notice to the Owner via certified mail, stating that unless the Board receives a written objection within 30 calendar days of the date of the notice, the Board will interpret the failure to respond as the Owner providing "deemed authorization" for the Claimant to file the claim. The final determination for "deemed authorization" will be voted at the next scheduled Board meeting where a 7-member quorum is present.

With the exception of claims submitted by Direct Pay Claimants, if a "deemed authorization" is voted by a 7-member quorum, it is assumed to be in effect until the Owner submits a written notification to the Board that they object to the "deemed authorization." A Claimant is not required to obtain an Owner Authorization for subsequent submittals at a site where the Board has granted a "deemed authorization". Direct Pay Claimants; however, must continue to seek the Owner's authorization for each claim, and if unable to obtain authorization, then the Direct Pay Claimant may seek deemed authorization from the Board.¹

If the Board receives a written objection within the 30-day deadline, or after a "deemed authorization" has been granted, the Board will schedule a Conference hearing with a Three-Member Panel of the Board, the Owner, and the Claimant to resolve the issue. If either the Owner or the Claimant fails to attend the Conference without providing at least two business days notice, the Board shall interpret its absence as follows:

- a) in the case of the Owner, failure to attend will be considered a withdrawal of the objection, at which time the Claimant will be granted "deemed authorization" to file claims; or,ⁱ
- b) in the case of the Claimant, failure to attend will be considered a withdrawal of the request for authorization and the claim will be considered incomplete for failing to submit Owner Authorization, and will be returned to the Claimant.

As with all other Conferences, the Three-Member Panel will make a recommendation to the full Board. The final determination for "deemed authorization" will be voted at the next scheduled Board meeting where a 7-member quorum is present.

ⁱ Policy adopted by the UST Board on August 26, 2010

¹ Revisions regarding Direct Pay Claimant adopted by the UST Board on October 31, 2013